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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: KOMURA et al.

Serial No.: 09/616,372

Filed: 7/13/2000

Title: METHOD FOR MEASURING
THICKNESS OF OXIDE FILM

Atty. Dkt.: 01-50

Art Unit: 2881

Examiner: Souw

Commissioner for Patents
United States Patent and Trademark Office
Arlington, VA

Date: 21 May 2003

CERTIFICATE OF FACSIMILE TRANSMISSIONI hereby certify that this correspondence is being facsimile transmitted to the USPTO (Fax. No. 703-872-9318) on this date: 21 May 2003
Typed Name: JAMES E. BARLOW.Signature: J. Barlow**REQUEST FOR WITHDRAWAL OF FINALITY OF REJECTION**

Sir:

A final rejection was mailed on 31 March 2003. The final rejection was a second office action, however, the final rejection included a rejection not necessitated by the applicants' amendment. Therefore, the applicants respectfully request that the finality of the rejection be withdrawn.

The rejection at issue is the rejection under section 101 of numbered paragraph 8, which appears on page 6 of the office action. This rejection concerns the formula that appears in claim 3. However, the formula appeared in original claim 3, and the first, non-final rejection did not mention inoperability or section 101. Therefore, the rejection is a new ground not necessitated by the amendment. According to MPEP 706.07(a) it is improper to make a rejection final under these circumstances.

Although no fees are believed to be due, please charge any additional unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

J. Barlow
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